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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 886,894	06/21/2001	John Joseph Curro	8590	6719

27752 7590 12/19/2002

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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/886,894

Applicant(s)

CURRO ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to an electrical cable, classified in class 174, subclass 68.1.
  - II. Claims 9-16, drawn to a method of making an electrical cable, classified in class 156, subclass various.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made without providing first and second dielectric webs.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Angela Stone on December 13, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 9-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

5. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "flat conductors having been previously integral with each immediately adjacent flat conductor." How were these conductors integral with each other previously? Are these conductors no longer integral with each other? What does being integral with each other mean? While "previously integral" is partially defined by the specification, it is still not clear what "prior to forming into individual conductors, each conductor so formed was integral with adjacent conductors as a unitary, integral sheet or web" (page 11, lines 3-11) means, because it is somewhat of a circular

definition. Applicant later defines "integral" to mean "one" (page 14, lines 29-30). This appears to mean the conductors are formed from the same material.

Claim 3 recites the limitation "said webs of dielectric material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 4-8 recite the limitation "said dielectric material" in line 1 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 6 and 7 recite the dielectric material to comprise "PTFE". While the abbreviation is understood to mean polytetrafluoroethylene because it is defined in the specification, abbreviations should not be used in the claims to define something that can be written out fully.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Proulx (U.S. Patent No. 5,304,741).

Proulx disclose an electrical cable with parallel flat conductors (Abstract and Figure 1). The limitation of the conductors having been previously integral with each other is a method limitation that would not change the final product, as the material of Proulx would be the same. With regard to claim 2, the conductors are preferably copper

(column 1, line 52). With regard to claims 3 and 4, the conductor wire is held in place by insulation material that is thermoplastic polymer (column 2, lines 15-38).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer et al. (U.S. Patent No. 5,744,756) in view of Proulx.

Springer et al. disclose a transmission cable with parallel conductors held in place by meltblown microfiber insulation (Abstract). Springer et al. do not disclose the parallel conductors to be flat or to be made of metal. Springer et al. do disclose the conductors are constructed of any conventional electrically conductive material (column 5, lines 3-5). Proulx disclose conventional conductive material is flat, round, or a combination of both (column 1, lines 7-12). It would have been obvious to one having ordinary skill in the art to use flat metal conductors as taught by Proulx in order to provide a flat configuration to the cable, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth et al. (U.S. Patent No. 4,924,037) in view of Proulx.

Ainsworth et al. disclose parallel copper wires coated with a film of microporous, expanded polytetrafluoroethylene (column 1, lines 9-12). Ainsworth et al. do not disclose the wires to be flat, but does desire the cable to be flat (column 1, line 50). Proulx discloses parallel flat conductors. It would have been obvious to one having ordinary skill in the art to use flat metal conductors as taught by Proulx in order to more easily create the flat cable desired by Ainsworth et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Proulx in view of Springer et al.

Proulx do not disclose a nonwoven fabric as the insulating material. Springer et al. disclose using meltblown fabrics as the insulating material as a means of providing sufficient insulation at a reasonable cost (column 2, lines 42-44). It would have been obvious to one having ordinary skill in the art to use the meltblown fabric for insulation material in the cable of Proulx in order to provide sufficient insulation at a decreased cost, as taught by Springer et al.

14. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Proulx in view of Ainsworth et al.

Proulx do not disclose using microporous expanded PTFE as the insulating material. Ainsworth et al. disclose microporous expanded PTFE is advantageously used as insulating material in electrical cable in order to provide heat resistance and

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sufficient flexibility. It would have been obvious to one having ordinary skill in the art to use the insulating material taught by Ainsworth et al. in the cable of Proulx in order to provide sufficient heat resistance and flexibility.

### **Conclusion**

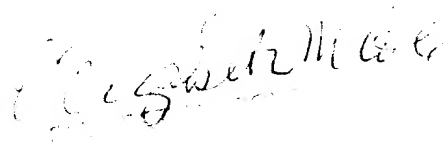
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce  
Examiner  
Art Unit 1771



December 16, 2002